

**ASSEMBLY BILL**

**No. 1626**

**Introduced by Assembly Member Klehs**

February 22, 2005

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An act to amend Section 1198.5 of the Labor Code, relating to personnel files.

LEGISLATIVE COUNSEL'S DIGEST

AB 1626, as introduced, Klehs. Personnel files.

Existing law, with specified exceptions and pursuant to certain limitations, grants every employee the right to inspect the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Existing law requires employers to maintain and provide access to employee records.

This bill would define "employee" to include former employees who seek to inspect personnel records during the period of any statute of limitations governing claims that may be asserted with respect to the employment relationship.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1198.5 of the Labor Code is amended to
- 2 read:
- 3 1198.5. (a) Every employee has the right to inspect the
- 4 personnel records that the employer maintains relating to the
- 5 employee's performance or to any grievance concerning the
- 6 employee.

(b) The employer shall make the contents of those personnel records available to the employee at reasonable intervals and at reasonable times. Except as provided in paragraph (3) of subdivision (c), the employer shall not be required to make those personnel records available at a time when the employee is actually required to render service to the employer.

(c) The employer shall do one of the following:

(1) Keep a copy of each employee's personnel records at the place where the employee reports to work.

(2) Make the employee's personnel records available at the place where the employee reports to work within a reasonable period of time following an employee's request.

(3) Permit the employee to inspect the personnel records at the location where the employer stores the personnel records, with no loss of compensation to the employee.

(d) The requirements of this section shall not apply to:

(1) Records relating to the investigation of a possible criminal offense.

(2) Letters of reference.

(3) Ratings, reports, or records that were:

(A) Obtained prior to the employee's employment.

(B) Prepared by identifiable examination committee members.

(C) Obtained in connection with a promotional examination.

(4) Employees who are subject to the Public Safety Officers Procedural Bill of Rights, Chapter 9.7 (commencing with Section 3300) of Division 4 of Title 1 of the Government Code.

(5) Employees of agencies subject to the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

(e) The Labor Commissioner may adopt regulations that determine the reasonable times and reasonable intervals for the inspection of records maintained by an employer that is not a public agency.

(f) If a public agency has established an independent employee relations board or commission, an employee shall first seek relief regarding any matter or dispute relating to this section from that board or commission before pursuing any available judicial remedy.

(g) *For purposes of this section, "employee" includes former employees during the period of any statute of limitations*

1 *governing claims that may be asserted with respect to the*  
2 *employment relationship.*

3 (h) In enacting this section, it is the intent of the Legislature to  
4 establish minimum standards for the inspection of personnel  
5 records by employees. Nothing in this section shall be construed  
6 to prevent the establishment of additional rules for the inspection  
7 of personnel records that are established as the result of  
8 agreements between an employer and a recognized employee  
9 organization.

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